

**Pennsylvania Community Providers Association  
Comments and Recommendations  
Draft Proposed Psychiatric Residential Treatment Facilities  
May 22, 2006**

The Pennsylvania Community Providers Association (PCPA) is pleased to offer our comments, concerns and suggestions for the April 17, 2006 draft proposed regulations for psychiatric residential treatment facilities (PRTF). Many of the PCPA comments and recommendations were developed in a meeting with many providers of residential treatment programs who would be impacted by psychiatric residential treatment regulations. A copy of the provider work group comments from that meeting has been included with our recommendations presented here.

The expectation of PCPA is that new program regulations will reflect the intent to ensure the safe and appropriate care and treatment of children and adolescents served in the commonwealth's PRTF programs. Provider agencies are responsible for regulatory compliance and for successfully meeting accreditation standards. Providers carry the medical, ethical, administrative and fiscal responsibility for these programs and, most importantly, for service quality and effectiveness. The ongoing role of the provider community in the process of development of regulation is critically important.

A general recommendation is that the Department of Public Welfare (DPW) focus the structure and content of proposed PRTF regulations on operational standards and not include clinical milieu or treatment model requirements in regulation. The regulations should call for PRTF programs to provide and update program descriptions. Clinical and service models must be dynamic and should reflect the population served, current clinical thinking and advances in professional practice. This is the approach now used in all other psychiatric treatment service regulations (outpatient, partial hospital, psychiatric inpatient, etc.). To include a particular approach or model in regulation fails to acknowledge the current and future advances in practice, the inevitable changes in service populations and the need for trained service professionals, agency boards of directors and program leaders to continually review and revise practice and program. In most cases, accrediting bodies expect and encourage program innovation, assessment and improvement.

PCPA recommends that the department design the final regulations using the current regulatory structure and conventions reflected in the other psychiatric treatment service regulations. It will also be vital to coordinate the development of PRTF regulations with Chapter 3800 regulations if those are to be applied in part or in whole to the licensure of psychiatric residential treatment facilities. In addition, the department should research the various applicable accreditation standards and child and adolescent inpatient service standards that have been developed by national professional and provider associations to guide community standards of care. Consideration of these standards will help to ensure that regulations are consistent with other standards that will be applied to programs and services.

PCPA urges DPW to use this opportunity to review the Medical Assistance regulations as well as HealthChoices contract standards related to rate setting, credentialing, and other requirements that will impact the state wide operation of PRTF programs. Disparate approaches to rates, credentialing, training, application of medical necessity criteria and

**Pennsylvania Community Providers Association  
Comments and Recommendations  
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May 22, 2006**

other purchaser specific requirements tend to increasingly fragment and impede the administrative and clinical operation of PRTF services across the commonwealth.

PCPA recognizes that the April 17, 2006 document is a preliminary draft of proposed regulation intended to initiate the process of developing the best possible document for consideration as final regulation. Our staff and members look forward working with the department, our professional colleagues and with other stakeholders in the development of final regulations. Should you have any questions regarding these comments and recommendation, please contact Connell O'Brien at [connell@paproviders.org](mailto:connell@paproviders.org), or by phone at 717-364-3280.

**Pennsylvania Community Providers Association  
Comments and Recommendations  
Draft Proposed Psychiatric Residential Treatment Facilities  
May 22, 2006**

Comments and Recommendations

In the section SCOPE

- This section should make direct reference to the accreditation bodies to be recognized for purposes of licensure for psychiatric residential treatment facilities (PRTF).
- This section should make clear reference to any other regulations, i.e. Chapter 3800, 3140, etc. that may apply to PRTF services.
- There should be consideration given to the scope of HealthChoices participation. Medicaid is a state wide contractual model, while HealthChoices managed care organizations contract and credential on a regional or other non-state wide basis. The movement of clients and the ability of the state to maintain a state wide Medicaid system should be addressed.

In the section PURPOSE

- It will be important to clarify and define the *certification for need of service* process and standards. Regulations should set the standards for an independent review, credentials of review and certification staff and documentation standards. Hospital and PRTF providers are already complying with this standard but need additional guidance from the state.
- Will behavioral health managed care organization admission review and authorization be considered as acceptable as the certification for need of service?
- The PURPOSE section is consistent in its focus on regulatory and accreditation requirements for PRTF certification/licensing. PCPA agrees that the purpose of these regulations should be limited to such regulations and standards and not include requirements for specific clinical or programmatic models or philosophies for reasons previously noted.

In the section BACKGROUND

- The current draft document refers to PRTF programs as *designed to offer a short term, intense, focused treatment program*. This statement does not reflect generally accepted descriptions of PRTF, especially the terms short term and intense, nor is it consistent with HealthChoices medical necessity criteria.
- There should be no reference in regulation to outcomes other than those related to the individual plan of care and the discharge criteria reflected in the HealthChoices medical necessity criteria.
- PCPA recommends changing the phrase in the second paragraph from *when treatment in a PRTF is no longer medically necessary* by adding the words *and an appropriate disposition is available*.
- PCPA recommends eliminating any reference to specific psychiatric conditions, i.e. autism, co-occurring disorders, etc. from the regulatory language. It would be better to refer only to psychiatric conditions including conditions reflected in a 5 axis diagnosis. Any reference to focused populations and specialized treatment could be contained in the program description developed by the provider facility at the time of licensure. The program description for the specific facility would

**Pennsylvania Community Providers Association  
Comments and Recommendations  
Draft Proposed Psychiatric Residential Treatment Facilities  
May 22, 2006**

also allow the facility to address their capacity and intent to address such non-clinical issues related to child welfare or juvenile justice services required in disposition and after care planning.

- The sentence beginning with *The residential treatment facility is expected to work actively with the family, other agencies.....* should end after the phrase: *to meet the individual needs of the resident.*

In the section DEFINITIONS

- Active treatment: The current document is ambiguous in its definitions and references to the treatment team that has medical, legal and ethical responsibility for the plan of care under 42 CFR 441.155 and the interagency service planning team. Federal regulations are clear that treatment and care *planning should be done in consultation with the resident and his/her parents, legal guardians, or others in whose care the individual will be released after discharge.* State regulations must provide clear and useful guidance regarding the essential role of families and clients without abrogating the medical and legal requirements placed upon the PRTF, psychiatrist and staff. The role, responsibilities and obligations of members of the Interagency Service Planning Team must be clear and specific, reflecting the goal of collaboration while not creating confusion regarding the statutory responsibility of the providers.
- Drug used as a restraint: This definition, taken from CFR 483.352, is broad and will require clarification and explanation to ensure understanding and compliance.
- Emergency safety situation: The word *unanticipated* is of concern in the context of treatment of emotionally disturbed and mental ill individuals. Both anticipated and unanticipated *resident behaviors that places the resident or other at serious threat* do occur and may result in an emergency safety situation.
- Hospital leave: PCPA recommends that this definition be broadened and clarified to include private psychiatric hospitals, rehabilitation facilities and medical-surgical hospital admissions. While not an issue of definition, PCPA does note that hospital facilities frequently expect and receive staff support from the PRTF facility. While this is essential for the wellbeing of the client it is not a covered benefit and constitutes a form of uncompensated care. This issue should be addressed in the context of cost, rate setting, and/or the schedule of covered benefits within Medicaid and HealthChoices plans.
- Individual plan of care and Interagency Service Planning Team: See previous comments. PCPA also recommends that the regulations and definitions include reference to Act 147, the amended minor's consent act, as it relates to the role of the parent and client in both consent to treatment and control of client records. PCPA recommends that time frames be established for an initial plan of care, ISPT developed plan of care. It will be essential that managed care organizations (MCO) collaborate in the development of this standard and that all MCOs comply with it in a uniform manner.
- Mental Health Aide: The age requirement of 21 may preclude paid and unpaid university students involved in field placements, internships, and seasonal

**Pennsylvania Community Providers Association  
Comments and Recommendations  
Draft Proposed Psychiatric Residential Treatment Facilities  
May 22, 2006**

employment. This has implications for staffing, labor pool development, training and cost of service. PCPA recommends that either the age requirement be adjusted or another entry level position with a lesser age requirement be developed.

- **Mental Health Professional:** The requirement of three years of clinical experience is unrealistic in the current labor market. It will also dramatically impact the traditional role of PRTF as one of the highly supervised treatment milieu settings used to provide training, experience and employment to entry level mental health professionals. The prerequisites stated in the current draft regulations would result in substantial cost increases and displacement of current employees.
- **Mental Health Worker:** The requirement of one year of CASSP system experience is unrealistic in the current labor market. It will also dramatically impact the traditional role of PRTF as one of the highly supervised treatment milieu settings used to provide training, experience and employment to entry level mental health workers. The prerequisites stated in the current draft regulations would result in substantial cost increases and displacement of current employees. PCPA would also ask that the concept of CASSP system be expanded to include a range of pediatric, recreation and leisure, social welfare, community action and other relevant work experiences.
- **Mental Health Worker:** Licensed Registered Nurses are currently included in this category. PCPA recommends the creation of a separate category and definition for registered nurses.
- PCPA recommends that a process be developed to review, revise and expand definitions and categories for all personnel areas. These should be consistent with available national program, accreditation, and credentialing standards. Definitions and requisite qualifications should be consistent with other behavioral health services regulated by the department and applied uniformly by Medicaid MCOs.
- **Staff:** See recommendation above. The term restraint should not be part of this general definition. PCPA recommends that distinctions be made between direct care staff and service support staff (housekeeping, administrative, dietary, maintenance, etc.) for purposes of training, supervision and routine work assignments.
- **Team developing individual plan of care:** See recommendations under *Active treatment* and *Individualized plan of care*.

In the section PROGRAM DISCRIPTION

- As previously recommended, reference to autism, co-occurring disorders, and other specific diagnostic or treatment categories should not be included in the regulations.
- PCPA questions the use of the regulatory language *demonstrating the provider's ability to support, and maximize the quality of life and functional abilities of the residents.....* as vague and open to interpretation, making this poor language for regulation.

**Pennsylvania Community Providers Association  
Comments and Recommendations  
Draft Proposed Psychiatric Residential Treatment Facilities  
May 22, 2006**

- PCPA recommends that clear language be developed that makes reference to the clinical and treatment function and mission of the PRTF, the need for there to be treatment of the existing psychiatric condition and reference to medical necessity criteria for treatment in a PRTF.
- PCPA recommends that a review of national standards for PRTF be undertaken to ensure that expectations for program descriptions are consistent with accreditation standards and other generally recognized service standards for PRTF.
- It is important for the PRTF program description to address how the program will address or arrange for the client's educational needs to be met.

In the section GENERAL REQUIREMENTS:

- Paragraph A: PCPA recommends that the current joint DOH-DPW bulletin on co-occurring (MH-D&A) treatment be referenced.
- Paragraph B (1): See previous recommendations regarding definitions, qualifications and classifications of facility staff. The stated requirement of 3 years CASSP system experience is not consistent with the Mental Health Professional definition.
- Paragraph B (2): PCPA recommends reference be made to educational entitlement.
- Paragraph C: PCPA recommends that the first line of this section read: *Each program must have a board certified, licensed psychiatrist to oversee treatment of each resident.*
- Paragraph D: See recommendations regarding active treatment and individual plan of care. PCPA recommends that language be used to distinguish between the preliminary or initial plan of care developed at the point of admission and the ISPT developed plan of care developed 14 days after admission. PCPA recommends that regulatory requirements related to parental notification of changes in the treatment, including medications, be consistent with recent policy clarifications for this section of Chapter 3800 regulations. PCPA urges that efforts be made to ensure consistency and coordination of regulatory intent and language between PRTF regulations and the Chapter 3800 regulations.
- Paragraph E: PCPA recommends that in addition to the highly desirable on-site meeting, that an option be available, at the discretion of the family, to use an electronic meeting (teleconference or video conference) in lieu of an on-site meeting. PCPA recommends that national standards be referenced regarding after care planning documents, communications and time lines. PCPA recommends that managed care organizations be engaged in the development of these standards and that all MCOs be required to apply these standard in a uniform manner.
- Paragraph F: PCPA recommends that this section define the role and function of the county human service system and managed care organization. It is also recommended that this section be expanded to address planning for residents not returning to their home or community.

**Pennsylvania Community Providers Association  
Comments and Recommendations  
Draft Proposed Psychiatric Residential Treatment Facilities  
May 22, 2006**

In the section TREATMENT REQUIREMENTS

- Strengths Based Programming: PCPA recommends that the first sentence be amended to read *Active PRTF treatment begins with...* It should be presumed that PRTF is an element in the on-going active treatment of the client. The expectation that the PRTF *provide or obtain all services their resident needs while a resident of the facility* is unreasonably broad and all encompassing. PCPA recommends that this section should be clarified and modified and that it be addressed by the facility in the program description.
- Paragraph #2: A regulation requiring *promotion of social skills consistent with adaptation to society norms and individual community* is vague, not measurable and may be clinically contraindicated. PCPA recommends that this standard be eliminated.
- Paragraph #3: PCPA recommends replacing the term *age-appropriate* with the term *treatment indicated*.
- Paragraph #7: PCPA recommends replacing the term *discharge progress* with the term *treatment progress*. PCPA also requests clarification of the term and intent of including the expectation that skill be mastered. It will be vital to know what skills, their relationship to the treatment plan and medical necessity criteria for discharge and how measurement will be assessed in the licensure process.
- Paragraph #8: PCPA recommends that this section be organized into two discrete paragraphs reflecting the two distinct tasks. PCPA recommends one paragraph stating that *Prior to discharge the PRTF shall submit documents related to the resident's care in its facility to the ambulatory mental health agencies providing aftercare.* It is also recommended that the expected documents be enumerated in the regulation. PCPA recommends that a second paragraph read *For any resident receiving or who has received psychotropic medication during their PRTF stay, the clinical rationale for each medication shall be clearly documented on their psychiatric discharge treatment summary or final evaluation.*
- Subsection B: The standard that *PRTFs are responsible for developing supports and skills for children that promote their mentally healthy functioning...* is a laudable vision but is not appropriate regulatory language. This expectation is not consistent with medical necessity criteria, and may frequently be beyond the scope of practice and deliverable service for a PRTF. PCPA recognizes the current role and value of trauma informed care in the treatment of many PRTF residents. The inclusion of a specific modality for intervention is not appropriate for inclusion in regulation. The description for the implementation of trauma informed care should be removed from future draft regulations. In an era of active research and evolving and improving clinical practice, the inclusion of a specific modality may limit services and preclude the application of new developments in the field. The expectation that a PRTF employ current clinical practices is reflected in accreditation standards and will be addressed by the requirement that a PRTF be accredited.

**Pennsylvania Community Providers Association  
Comments and Recommendations  
Draft Proposed Psychiatric Residential Treatment Facilities  
May 22, 2006**

In the section PLAN OF CARE

- Paragraph A (labeled "B" in the current draft) #2: In section "e" the term *partial discharge plans* is confusing.
- Paragraph #2,B: PCPA recommends that the state clarify and codify the role, responsibilities, limitations and function of the team of professionals and those individuals working in consultation with that team.
- Paragraph # 4: PCPA requests that utilization control standards applied in Pennsylvania and in the HealthChoices program be clarified in specific terms. PCPA asks that the review and authorization by an MCO be recognized as an independent certification and recertification control process compliant with federal standards.

In the section TEAM DEVELOPING INDIVIDUAL PLAN OF CARE

- PCPA recommends that the department verify the standard terms and titles currently in use in Pennsylvania for the certified, licensed and credentialed mental health and health care professionals and use that language in the development of regulation.
- PCPA recommends that trained and professional Family Therapists, Clinical Counselors and other recognized mental health professional be added to the list of staff where it does not conflict with federal standards.
- PCPA is also concerned that a prerequisite of one year of experience treating mentally ill individuals will limit the training and employment opportunities for professionals and preclude facilities from properly staffing programs. Such prerequisite staff requirements will also increase the cost of services in a competitive employment market. A broad interpretation of one year of experience that includes internships, volunteer experiences, etc. may help to address this.

In the section FAMILY PARTICIPATION

- PCPA supports the full and constructive participation and involvement of the resident's family as a critical element in the treatment and recovery process during and after treatment in the PRTF level of care.
- It will be vital that the commonwealth define and describe the role, responsibilities and limitations of family participation in a manner that uphold federal statutes, reflects clear and productive expectations for the PRTF and for the family, and does not confuse or abrogate the legal, ethical or societal responsibilities of the resident, the parents or legal guardian, or the team of treating professionals lead by the physician. Current draft regulation language would seem to conflict with federal language, or at least engender confusion about the role and responsibilities of the parties to care planning and treatment services.
- PCPA recommends the inclusion of the standards reflected in Act 147 in the regulatory language for this section.
- PCPA recommends that the department provide on-going guidelines and resources to residents, parents and legal guardians, PRTFs and MCOs to facilitate

**Pennsylvania Community Providers Association  
Comments and Recommendations  
Draft Proposed Psychiatric Residential Treatment Facilities  
May 22, 2006**

the resolution of conflicts related to consent to treatment, control of records, plan of care, and other elements of services that will predictably occur in the intense context of out of home placement for treatment.

- PCPA recommends that regulations call for the PRTF to document reasonable efforts to hold a face to face meeting with parents or legal guardians within seven days of admission. The PRTF may, at the request of the parents or legal guardian, conduct this meeting via telephone or other electronic means.
- PCPA supports the role of PRTFs in assisting with the coordination of available transportation for the family's on site participation in planning, treatment and visitation with their child. Many PRTFs are not able to provide transportation and often find that the provision of transportation, lodging, meals and other support to the family is not an allowable program cost supported by the contractual rate established by the department or by the MCO. The shared expectation of the department and the providers is that families have full and active participation in the treatment process. This expectation must be reflected in the service rate structure regardless of payer.
- PCPA recommends that, to reduce confusion, residents, families, legal guardians, and other stakeholders in the treatment and planning process be described in regulation as *active members* of the ISP team, rather than *full members*.
- PCPA recognizes the value and importance of family therapy and parent support groups as part of the potential plan of care for many residents. Should regulation call for these to be mandatory elements of the PRTF program it will be necessary to complete a cost analysis for these services for inclusion in the contractual service rate.
- PCPA recommends that the statement *consideration of providing treatment services in the resident's home or community must be given* be dropped from this section. The term *consideration* is vague and ambiguous and would be problematic in regulation. Any The expectation that a PRTF be expected to provide or facilitate the provision of other levels of care for children with or without families should be addressed in sections related to discharge and disposition planning or sections dealing with interagency agreements that include counties and managed care organizations.

In the section RESIDENT RECORDS

- PCPA notes in line #19 the term past treatment records would be more useful.
- PCPA recommends that the term legal *documents* be replaced in regulation by the term legal *record*.
- PCPA recommends that this section include language reflective of standards related to Act 147, and other state and federal regulations related to the control and management of medical and, as appropriate, educational records.

In the section MEDICATION

- PCPA recommends that this section be carefully coordinated with current Chapter 3800 regulations and recent policy clarifications related to those regulations.

**Pennsylvania Community Providers Association  
Comments and Recommendations  
Draft Proposed Psychiatric Residential Treatment Facilities  
May 22, 2006**

- PCPA recommends that this section be reviewed and coordinated with regulations for other inpatient levels of psychiatric treatment and standards for psychiatric practice.

In the section STAFFING REQUIREMENTS

- PCPA recommends that the department conduct a complete cost analysis of the impact of the provisions in this section. Prerequisite training and experience requirements, recent changes in wage and hour regulations, escalating employee benefit and other staff related expenses will substantially change the human service cost structure for PRTF providers.
- The commonwealth will need to address the added cost of requiring pre-employment drug testing as well as the growing costs associated with child abuse, criminal history background checks and other credentialing requirements imposed by managed care organizations.
- PCPA recommends that any variation from a general staffing ratio be addressed by the facility/provider agency and the department during the review of the program description, rate development and preliminary (provisional) licensing process.
- PCPA recommends a review of national staffing standards that have been developed for residential treatment and inpatient settings.
- PCPA recommends that the state conduct a focused consultation with current Pennsylvania PRTF providers in the development of staffing standards.
- PCPA recommends that any substantive change in staffing subsequent to licensure and rate setting be accepted as a contractual basis for rate review and potential rate adjustment in both the fee for service and managed care purchase of services.

In the section RESPONSIBILITIES OF THE PSYCHIATRIST

- PCPA recommends that the commonwealth collaborate with the Pennsylvania Psychiatric Society and review national standards the development of psychiatry responsibilities.
- PCPA recommends that, in the absence of a more specific definition of expectation for *regular and ongoing contact* by a psychiatrist, that the PRTF address this in the context of the program description. It is also recommended that the state factor into the development of psychiatrist tasks and responsibilities the current and growing shortage of psychiatrists.
- PCPA recommends that this section be coordinated with the state's pending development of standards for tele-psychiatry.

In the section General STAFF TRAINING

- PCPA recommends a careful review and revision of these requirement in collaboration with the provider community, as well as a cost impact analysis and projection that includes the cost of training, staffing substitutions to facilitate training, overtime costs, and the impact of staff turn over on training costs.
- See provider comments attached

**Pennsylvania Community Providers Association  
Comments and Recommendations  
Draft Proposed Psychiatric Residential Treatment Facilities  
May 22, 2006**

In the section CLINICAL TRAINING FOR STAFF

- PCPA recommends a careful review and revision of these requirement in collaboration with the provider community, as well as a cost impact analysis and projection that includes the cost of training, staffing substitutions to facilitate training, overtime costs, and the impact of staff turn over on training costs.
- See provider comments attached

In the section STAFF EDUCATION AND TRAINING ON THE USE OF RESTRAINTS

- PCPA recommends a careful review and revision of these requirement in collaboration with the provider community, as well as a cost impact analysis and projection that includes the cost of training, staffing substitutions to facilitate training, overtime costs, and the impact of staff turn over on training costs.
- See provider comments attached

In the section RESTRICTIVE PROCEDURES

- See provider comments attached

The Pennsylvania Community Providers Association, its members and staff, look forward to participating in the development, review and revision of future drafts of proposed PRTF regulations.